

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

v.

LEWIS MOBELY,

Defendant.

CIVIL ACTION NO.

1:13-CR-218-CAP-LTW

ORDER

This matter is before the court on the magistrate judge's final report and recommendation [Doc. No. 135]. The defendant objected to the magistrate judge's recommendation to deny the motion to suppress evidence resulting from unlawful seizure of cell phone and jacket and unlawful search of cell phone [Doc. No. 113], and motion to suppress evidence resulting from unlawful search of cell phone pursuant to a warrant dated April 24, 2015 [Doc. No. 123]. After carefully considering the report and recommendation of the magistrate judge [Doc. No. 135], the court adopts in part and declines to adopt in part the report and recommendation as the opinion and order of this court.

The court ADOPTS the magistrate judge's ruling to deny the motion to suppress the jacket [Doc. No. 113] found in the car driven by the defendant.

The court receives the report and recommendation as to the above issue with approval and ADOPTS it as the opinion and order of this court.

The court declines to adopt the recommendation that the defendant lacks standing to challenge the seizure of the cell phone and the subsequent searches of it. The court directs the magistrate judge to conduct a hearing on whether the defendant has standing to challenge the seizure and searches of the cell phone. If the magistrate court finds that the defendant has standing, then the magistrate judge should also make a recommendation on the suppression issues related to the cell phone.

The court ADOPTS in part and DECLINES TO ADOPT in part the report and recommendation of the magistrate court. The clerk is directed to submit the motion to suppress evidence resulting from unlawful seizure of cell phone and unlawful search of cell phone [Doc. No. 113], and motion to suppress evidence resulting from unlawful search of cell phone pursuant to a warrant dated April 24, 2015 [Doc. No. 123], to the magistrate court for further consideration.

SO ORDERED this 2nd day of February, 2016.

/s/ Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
United States District Judge